European Commission.

2011 ANPRM, 76 FR at 76642.

2. Public Hearings and Comments

Hearings were held in January 2012 in Washington, DC and in March 2012 in San Diego, CA. Additionally, 91 written comments were received in response to the 2011 ANPRM. Comments came from industry, Federal and state governments, foreign and domestic companies specializing in information technology, disability advocacy groups, manufacturers of hardware and

individuals with electromagnetic sensitivities, and notes that electromagnetic sensitivities may be considered a disability under the ADA if the sensitivity so severely impairs the neurological, respiratory, or other functions of an individual that it substantially limits one or more of the individual's major life activities. However, most of the accommodations suggested by these commenters are beyond the scope of this rulemaking or our statutory jurisdiction. Moreover, none of our prior rulemaking notices (*i.e.*, 2010 ANPRM, 2011 ANPRM, and NPRM) proposed technical specifications relating to electromagnetic sensitivities. Thus, were the Board to address electromagnetic sensitivity issues posed by ITC, this complex area would require thorough research and notice-and-comment rulemaking before being addressed through rulemaking.

F. Harmonization With European Activities

1. History

While the Access Board was in the process of updating its existing 508 Standards and 255 Guidelines, a similar process began in Europe to create the first European set of ICT accessibility

who did not identify with any of these groups.

Overall, we received about 160 comments in response to the NPRM, including written comments and oral testimony from witnesses at the three public hearings. These commenters represented, when excluding multiple submissions, about 140 different entities or individuals. By general category, these NPRM commenters can be broken down as follows: Individuals (59); disability advocacy organizations (59); ICT companies (10); accessible ICT

harmonization would be improvident because, in their view, EN 301 549 set forth weaker accessibility requirements in some areas.

Lastly, the Board received multiple comments from individuals or entities addressing various types of electromagnetic sensitivities. These commenters requested that the final rule require accommodations for people with electromagnetic intolerances, so that they might use Federal buildings and Federally-funded facilities. The Board acknowledges the challenges faced by

European Accessibility Requirements for Public Procurement of Products and Services in the ICT Domain (Dec. 7, 2005), *available at http://www.etsi.org/WebSite/document/aboutETSI/EC_Mandates/m376en.pdf.* Specifically, Mandate 376 requested that the three European standards setting bodies—European Committee for Standardization (CEN), European Committee for Electrotechnical Standardization (CENELEC) and the European Telecommunications Standards Institute (ETSI)—perform two main tasks: Development of a set of functional European accessibility requirements for public procurement of ICT products and services; and creation of an electronic toolkit for use by public procurers.

In early 2014, the three European standardization organizations completed their development process by formally adopting and publishing the first European set of specifications on e-accessibility for public ICT procurements, EN 301 549. *See* ETSI/CEN/CENELEC, EN 301 549 V1.1.1 (2014–02), Accessibility Requirements Suitable for Public Procurement of ICT Products and Services in Europe (Feb. 2014), *available at http://www.etsi.org/deliver/etsi_en/301500_301599/301549/*

bodies take the necessary measures to make their Web sites and mobile applications more accessible [to persons with disabilities] by making them perceivable, operable, understandable and robust." Directive 2016/2102 on the Accessibility of the Web sites and Mobile Applications of Public Sector Bodies, Article 4 (Oct. 26, 2016), *available at http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016L2102&from=EN.* Directive 2016/2102 further provides that, as a general matter, EN 301 549 V1.1.2 (2015–04) serves as the relevant accessibility standard absent future adoption of technical standards or publication of references to harmonized standards by the European Commission. *Id.* at Article 6. EN 301 549 is thus now available to government officials in EU member states who may use it as technical specifications or award criteria in public procurements of ICT products and services.

2. Comparison of Final Rule With EN 301 549

In the final rule, the Board has made multiple changes that are similar to EN 301 549. Both the final rule and EN 301 549 address the functions of technology, rather than categories of technologies.